



House of Representatives

General Assembly

File No. 157

February Session, 2000

Substitute House Bill No. 5710

House of Representatives, March 22, 2000

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

An Act Concerning Intimidation Based On Bigotry Or Bias.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (a) A person is guilty of intimidation based on
2 bigotry or bias in the first degree when such person maliciously, and
3 with specific intent to intimidate or harass another person because of
4 the actual or perceived race, religion, ethnicity or sexual orientation of
5 such other person, causes serious physical injury to such other person
6 or to a third person.

7 (b) Intimidation based on bigotry or bias in the first degree is a class
8 C felony.

9 Sec. 2. (NEW) (a) A person is guilty of intimidation based on bigotry
10 or bias in the second degree when such person maliciously, and with
11 specific intent to intimidate or harass another person because of the
12 actual or perceived race, religion, ethnicity or sexual orientation of
13 such other person, does any of the following: (1) Causes physical

14 contact with such other person, (2) damages, destroys or defaces any
15 real or personal property of such other person, or (3) threatens, by
16 word or act, to do an act described in subdivision (1) or (2) of this
17 subsection, if there is reasonable cause to believe that an act described
18 in subdivision (1) or (2) of this subsection will occur.

19 (b) Intimidation based on bigotry or bias in the second degree is a
20 class D felony.

21 Sec. 3. (NEW) (a) A person is guilty of intimidation based on bigotry
22 or bias in the third degree when such person, with specific intent to
23 intimidate or harass another person or group of persons because of the
24 actual or perceived race, religion, ethnicity or sexual orientation of
25 such other person or persons: (1) Damages, destroys or defaces any
26 real or personal property, or (2) threatens, by word or act, to do an act
27 described in subdivision (1) of this subsection or advocates or urges
28 another person to do an act described in subdivision (1) of this
29 subsection, if there is reasonable cause to believe that an act described
30 in said subdivision will occur.

31 (b) Intimidation based on bigotry or bias in the third degree is a
32 class A misdemeanor.

33 Sec. 4. Section 54-56e of the general statutes, as amended by section
34 3 of public act 99-148 and section 5 of public act 99-187, is repealed and
35 the following is substituted in lieu thereof:

36 (a) There shall be a pretrial program for accelerated rehabilitation of
37 persons accused of a crime or crimes or a motor vehicle violation or
38 violations for which a sentence to a term of imprisonment may be
39 imposed, which crimes or violations are not of a serious nature.

40 (b) The court may, in its discretion, invoke such program on motion
41 of the defendant or on motion of a state's attorney or prosecuting
42 attorney with respect to a defendant (1) who, the court believes, will

43 probably not offend in the future, (2) who has no previous record of
44 conviction of a crime or of a violation of section 14-196, subsection (c)
45 of section 14-215, section 14-222a, subsection (a) of section 14-224 or
46 section 14-227a, (3) who has not previously been adjudged a youthful
47 offender on or after October 1, 1995, under the provisions of sections
48 54-76b to 54-76n, inclusive, and (4) who states under oath, in open
49 court or before any person designated by the clerk and duly
50 authorized to administer oaths, under the penalties of perjury that the
51 defendant has never had such program invoked in the defendant's
52 behalf, provided the defendant shall agree thereto and provided notice
53 has been given by the defendant, on a form approved by rule of court,
54 to the victim or victims of such crime or motor vehicle violation, if any,
55 by registered or certified mail and such victim or victims have an
56 opportunity to be heard thereon. Any defendant who makes
57 application for participation in such program shall pay to the court an
58 application fee of thirty-five dollars.

59 (c) This section shall not be applicable: (1) To any person charged
60 with a class A or class B felony or a violation of section 14-227a, as
61 amended, subdivision (2) of section 53-21, section 53a-56b, 53a-60d,
62 53a-70, as amended, 53a-70a, as amended, 53a-70b, 53a-71, 53a-72a or
63 53a-72b, as amended, (2) to any person charged with a crime or motor
64 vehicle violation who, as a result of the commission of such crime or
65 motor vehicle violation, causes the death of another person, (3) to any
66 person accused of a family violence crime as defined in section 46b-38a
67 who (A) is eligible for the pretrial family violence education program
68 established under section 46b-38c, or (B) has previously had the
69 pretrial family violence education program invoked in such person's
70 behalf, (4) to any person charged with a violation of section 21a-267 or
71 21a-279 who (A) is eligible for the pretrial drug education program
72 established under section 54-56i, as amended, or (B) has previously
73 had the pretrial drug education program invoked in such person's
74 behalf, or (5) unless good cause is shown, to any person charged with a
75 class C felony.

76 (d) [Any] Except as provided in subsection (e) of this section, any
77 defendant who enters such program shall pay to the court a
78 participation fee of one hundred dollars. Any defendant who enters
79 such program shall agree to the tolling of any statute of limitations
80 with respect to such crime and to a waiver of the right to a speedy trial.
81 Any such defendant shall appear in court and shall, under such
82 conditions as the court shall order, be released to the custody of the
83 Office of Adult Probation, except that, if a criminal docket for
84 drug-dependent persons has been established pursuant to section
85 51-181b in the judicial district, such defendant may be transferred,
86 under such conditions as the court shall order, to the court handling
87 such docket for supervision by such court. If the defendant refuses to
88 accept, or, having accepted, violates such conditions, the defendant's
89 case shall be brought to trial. The period of such probation or
90 supervision, or both, shall not exceed two years. The court may order
91 that as a condition of such probation the defendant participate in the
92 zero-tolerance drug supervision program established pursuant to
93 section 53a-39d, as amended. If the defendant has reached the age of
94 sixteen years but has not reached the age of eighteen years, the court
95 may order that as a condition of such probation the defendant be
96 referred for services to a youth service bureau established pursuant to
97 section 17a-39, provided the court finds, through an assessment by a
98 youth service bureau or its designee, that the defendant is in need of
99 and likely to benefit from such services. If the defendant is charged
100 with a violation of section 1, 2 or 3 of this act or section 46a-58 or 53-
101 37a, the court may order that as a condition of such probation the
102 defendant participate in a hate crimes diversion program as provided
103 in subsection (e) of this section.

104 (e) If the court orders the defendant to participate in a hate crimes
105 diversion program as a condition of probation, the defendant shall pay
106 to the court a participation fee of four hundred twenty-five dollars. No
107 person may be excluded from such program for inability to pay such
108 fee, provided (1) such person files with the court an affidavit of

109 indigency or inability to pay, (2) such indigency or inability to pay is
110 confirmed by the Office of Adult Probation, and (3) the court enters a
111 finding thereof. The Office of Adult Probation shall contract with
112 service providers, develop standards and oversee appropriate hate
113 crimes diversion programs to meet the requirements of this section.
114 Any defendant whose employment or residence makes it unreasonable
115 to attend a hate crimes diversion program in this state may attend a
116 program in another state which has standards substantially similar to,
117 or higher than, those of this state, subject to the approval of the court
118 and payment of the application and program fees as provided in this
119 section. The hate crimes diversion program shall consist of a
120 psychosocial assessment, an educational program, supervised
121 community service and follow-up contact designed to change both the
122 attitude and behavior of persons charged with crimes motivated by
123 bigotry or bias.

124 [(e)] (f) If a defendant released to the custody of the Office of Adult
125 Probation satisfactorily completes such defendant's period of
126 probation, such defendant may apply for dismissal of the charges
127 against such defendant and the court, on finding such satisfactory
128 completion, shall dismiss such charges. If the defendant does not apply
129 for dismissal of the charges against such defendant after satisfactorily
130 completing such defendant's period of probation, the court, upon
131 receipt of a report submitted by the Office of Adult Probation that the
132 defendant satisfactorily completed such defendant's period of
133 probation, may on its own motion make a finding of such satisfactory
134 completion and dismiss such charges. If a defendant transferred to the
135 court handling the criminal docket for drug-dependent persons
136 satisfactorily completes such defendant's period of supervision, the
137 court shall release the defendant to the custody of the Office of Adult
138 Probation under such conditions as the court shall order or shall
139 dismiss such charges. Upon dismissal, all records of such charges shall
140 be erased pursuant to section 54-142a, as amended. An order of the
141 court denying a motion to dismiss the charges against a defendant

142 who has completed such defendant's period of probation or
143 supervision or terminating the participation of a defendant in such
144 program shall be a final judgment for purposes of appeal.

145 Sec. 5. Subsection (a) of section 53a-30 of the general statutes, as
146 amended by section 12 of public act 99-183, is repealed and the
147 following is substituted in lieu thereof:

148 (a) When imposing sentence of probation or conditional discharge,
149 the court may, as a condition of the sentence, order that the defendant:
150 (1) Work faithfully at a suitable employment or faithfully pursue a
151 course of study or of vocational training that will equip [him] the
152 defendant for suitable employment; (2) undergo medical or psychiatric
153 treatment and remain in a specified institution, when required for that
154 purpose; (3) support [his] the defendant's dependents and meet other
155 family obligations; (4) make restitution of the fruits of [his] the
156 defendant's offense or make restitution, in an amount [he] the
157 defendant can afford to pay or provide in a suitable manner, for the
158 loss or damage caused thereby and the court may fix the amount
159 thereof and the manner of performance; (5) if a minor, (A) reside with
160 [his] the minor's parents or in a suitable foster home, (B) attend school,
161 and (C) contribute to [his] the minor's own support in any home or
162 foster home; (6) post a bond or other security for the performance of
163 any or all conditions imposed; (7) refrain from violating any criminal
164 law of the United States, this state or any other state; (8) if convicted of
165 a misdemeanor or a felony, other than a capital felony, a class A felony
166 or a violation of section 21a-278, 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-
167 57, 53a-58 or 53a-70b or any offense for which there is a mandatory
168 minimum sentence which may not be suspended or reduced by the
169 court, and any sentence of imprisonment is suspended, participate in
170 an alternate incarceration program; (9) reside in a residential
171 community center or halfway house approved by the Commissioner of
172 Correction, and contribute to the cost incident to such residence; (10)
173 participate in a program of community service labor in accordance

174 with section 53a-39c, as amended; (11) participate in a program of
175 community service in accordance with section 51-181c; (12) if convicted
176 of a violation of subdivision (2) of section 53-21, section 53a-70, as
177 amended, 53a-70a, as amended, 53a-70b, 53a-71, 53a-72a or 53a-72b, as
178 amended, undergo specialized sexual offender treatment; (13) if
179 convicted of a criminal offense against a victim who is a minor, a
180 nonviolent sexual offense or a sexually violent offense, as defined in
181 section 54-250, as amended, or of a felony that the court finds was
182 committed for a sexual purpose, as provided in section 54-254, as
183 amended, register such person's identifying factors, as defined in
184 section 54-250, as amended, with the Commissioner of Public Safety
185 when required pursuant to section 54-251, as amended, 54-252, as
186 amended, or 54-253, as amended, as the case may be; (14) if convicted
187 of a violation of section 1, 2 or 3 of this act or section 46a-58 or 53-37a,
188 participate in an anti-bias crime education program; (15) satisfy any
189 other conditions reasonably related to his rehabilitation. The court
190 shall cause a copy of any such order to be delivered to the defendant
191 and to the probation officer, if any.

192 Sec. 6. (NEW) Each police basic or review training program
193 conducted or administered by the Division of State Police within the
194 Department of Public Safety, the Police Officer Standards and Training
195 Council established under section 7-294b of the general statutes or a
196 municipal police department in the state shall provide training relative
197 to crimes motivated by bigotry or bias.

198 Sec. 7. (NEW) There is established within the Division of State Police
199 within the Department of Public Safety a Hate Crimes Unit for the
200 purpose of assisting local police departments in developing and
201 implementing programs to increase community awareness and
202 reporting of crimes motivated by bigotry or bias and to combat such
203 crimes.

204 Sec. 8. (NEW) The Chief State's Attorney shall establish within the

205 Office of the Chief State's Attorney a Hate Crimes Advisory
206 Committee to coordinate federal, state and local efforts concerning the
207 enforcement of laws prohibiting the intimidation of persons on the
208 basis of bigotry or bias and programs to increase community
209 awareness and reporting of crimes motivated by bigotry or bias and to
210 combat such crimes, and to make recommendations concerning the
211 training of police officers relative to such crimes.

212 Sec. 9. (NEW) There is established a hate crimes training and
213 awareness grant program which shall be administered by the Office of
214 Policy and Management. Grants may be made on a competitive basis
215 to municipalities for the purpose of improving the enforcement of laws
216 prohibiting the intimidation of persons on the basis of bigotry or bias,
217 improving the training of police officers in the enforcement of such
218 laws and increasing community awareness and reporting of crimes
219 motivated by bigotry or bias. Funds appropriated for the purposes of
220 this section shall be used only for grants to eligible municipalities and
221 may not be used for administrative purposes by the Office of Policy
222 and Management.

223 Sec. 10. Subsection (d) of section 10-16b of the general statutes is
224 repealed and the following is substituted in lieu thereof:

225 (d) The State Board of Education shall make available curriculum
226 materials and such other materials as may assist local and regional
227 boards of education in developing instructional programs pursuant to
228 this section. The State Board of Education, within available
229 appropriations and utilizing available resource materials, shall assist
230 and encourage local and regional boards of education to include: (1)
231 Holocaust education and awareness; (2) the historical events
232 surrounding the Great Famine in Ireland; (3) African-American
233 history; (4) Puerto Rican history; (5) Native American history; (6)
234 personal financial management; [and] (7) hate crimes education and
235 awareness; and (8) topics approved by the state board upon the

236 request of local or regional boards of education as part of the program
237 of instruction offered pursuant to subsection (a) of this section.

238 Sec. 11. Section 29-7m of the general statutes is repealed and the
239 following is substituted in lieu thereof:

240 (a) On and after July 1, 1988, the Division of State Police within the
241 Department of Public Safety shall monitor, record and classify all
242 crimes committed in the state which are motivated by bigotry or bias.

243 (b) The police department, resident state trooper or constable who
244 performs law enforcement duties for each town shall monitor, record
245 and classify all crimes committed within such town which are
246 violations of section [53a-181b] 1, 2 or 3 of this act and report such
247 information to the Division of State Police within the Department of
248 Public Safety.

249 Sec. 12. Subsection (a) of section 52-571c of the general statutes is
250 repealed and the following is substituted in lieu thereof:

251 (a) Any person injured in person or property as a result of an act
252 that constitutes a violation of section [53a-181b] 1, 2 or 3 of this act may
253 bring a civil action against the person who committed such act to
254 recover damages for such injury.

255 Sec. 13. Section 53a-40a of the general statutes is repealed and the
256 following is substituted in lieu thereof:

257 (a) A persistent offender of crimes involving bigotry or bias is a
258 person who (1) stands convicted of a violation of section 46a-58 or 53-
259 37a or [subsection (a) or (c) of section 53a-181b] section 1, 2 or 3 of this
260 act and (2) has been, prior to the commission of the present crime,
261 convicted of a violation of section 46a-58 or 53-37a, [or subsection (a) or
262 (c) of section 53a-181b] section 1, 2 or 3 of this act or section 53a-181b of
263 the general statutes in effect prior to the effective date of this act.

264 (b) When any person has been found to be a persistent offender of
265 crimes involving bigotry or bias, and the court is of the opinion that
266 [his] such person's history and character and the nature and
267 circumstances of [his] such person's criminal conduct indicate that an
268 increased penalty will best serve the public interest, the court shall: (1)
269 In lieu of imposing the sentence authorized for the crime under section
270 53a-35a if the crime is a felony, impose the sentence of imprisonment
271 authorized by said section for the next more serious degree of felony,
272 or (2) in lieu of imposing the sentence authorized for the crime under
273 section 53a-36 if the crime is a misdemeanor, impose the sentence of
274 imprisonment authorized by said section for the next more serious
275 degree of misdemeanor, except that if the crime is a class A
276 misdemeanor the court shall impose the sentence of imprisonment for
277 a class D felony as authorized by section 53a-35a.

278 Sec. 14. Section 53a-181b of the general statutes is repealed.

279 Sec. 15. This act shall take effect October 1, 2000, except that sections
280 4 to 10, inclusive, shall take effect July 1, 2001.

JUD Committee Vote: Yea 39 Nay 0 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Cost, Minimal Revenue Gain

Affected Agencies: Judicial Department, Division of Criminal Justice, Department of Public Safety, Office of Policy and Management, Department of Education, Police Officer Standards and Training Council, Various Criminal Justice Agencies

Municipal Impact: None

Explanation**State Impact:**

The bill results in various impacts as follows (the impacts described for sections 4-10 begin in FY 02):

Sections 1-3 and 13-14 result in a cost to the criminal justice system by increasing the penalties for crimes involving intimidation based on bigotry or bias. These costs relate to additional criminal justice and correctional resources being allocated to these cases. In the short run, it is anticipated that these costs can be absorbed within the existing caseload structure of the criminal justice system. Over time, however, increases in criminal penalties could result in the need for additional criminal justice resources.

In 1999, according to Judicial Department statistics, there were 62 offenses involving intimidation based on bigotry or bias with \$2,585 collected in revenue from related criminal fines. The Uniform Crime Reports, which are published by the Department of Public Safety, indicate that there were 115 reported hate crime incidents in Connecticut in 1998 (the latest report available). Concerning imprisonment, there were 4-5 individuals in prison at any one time during 1999 for sentences where crimes involving intimidation based on bigotry or bias was the primary charge.

Sections 4 and 5 establish a hate crimes diversion program for individuals charged with certain hate crimes. This would result in a cost (beginning in FY 02) to the Judicial Department that would be contingent on the contracted cost of the program. Since the number of these crimes is relatively few, the cost is not anticipated to be significant. According to Judicial Department records, there were 62 criminal dispositions of the hate crimes statutes referenced in the bill in FY 99. The number of non-violent cases within this group is unknown.

The program requires a psychosocial assessment, an educational program, supervised community service and follow-up contact for a one-year period. The cost per person for this program could range from \$5,000 - \$10,000. It should be noted that these costs would be offset by a revenue gain to the General Fund from a \$425 program fee.

Section 6 requires each police basic or review-training program conducted by the Department of Public Safety, the Police Officer Standards and Training Council, or a municipal police department to include training relative to crimes motivated by bigotry or bias. The training requirement would not be effective until July 1, 2001 (FY 02). This would not result in additional costs to the state or municipalities. Each basic training program currently provides instruction in this area.

The review-training programs either already provide this instruction or have the ability of providing training through elective

courses. The current review training requirements are 45 hours every three years for municipal and other police officers and 45 hours annually for state police officers. Twenty-seven of these hours have a mandated curriculum, which includes 3 hours of human relations and 7 hours of police and the law. Both of these areas include topics concerning hate crimes. There are also 18 hours of elective courses, which departments could use to satisfy the bill's training requirements.

Section 7 establishes a Hate Crimes Unit within the Department of Public Safety (DPS) for the purpose of assisting local police departments in developing and implementing programs to increase community awareness and reporting of crimes motivated by bigotry or bias and to combat such crimes. It is estimated that DPS would require five positions and about \$250,000 per year beginning in FY 02. One Sergeant, two Troopers and two Office Assistants would staff this unit.

Section 8 establishes a Hate Crimes Advisory Committee within the Division of Criminal Justice. The minimal cost of this committee can be absorbed within anticipated budgetary resources.

Section 9 establishes a hate crimes training and awareness grant program to be administered by the Office of Policy and Management (OPM) beginning in FY 02. Funding for this grant does not currently exist. If funding is provided for this grant, it is anticipated that the hate crimes training and awareness grant program can be administered by OPM within anticipated budgetary resources.

Section 10 requires the State Department of Education to make curriculum materials available and to assist local boards of education in developing instructional programs concerning hate crimes education and awareness. This results in an approximate cost of \$20,000 beginning in FY 02. Funding for this program does not currently exist. These costs relate to the printing and distribution of curriculum materials.

Section 11 expands the requirement that local law enforcement officials report to the State Police (DPS) on crimes of intimidation based on bigotry or bias to include the new bias crimes created by the bill. This would have no fiscal impact on the state or municipalities.

Section 12 specifies that a civil action for damages may be brought for the expanded crimes contained in the bill. This section has no fiscal impact.

OLR Bill Analysis

sHB 5710

AN ACT CONCERNING INTIMIDATION BASED ON BIGOTRY OR BIAS.**SUMMARY:**

This bill:

1. creates the crimes of intimidation based on bigotry or bias in the first and third degree;
2. makes the crime of intimidation based on bigotry or bias a second-degree crime and makes related changes;
3. expands the statute on persistent offenders of crimes involving bigotry or bias to include the bill's new crimes;
4. creates a hate crimes diversion program under the accelerated rehabilitation (AR) program and allows the court to require people charged with certain bias crimes to participate in it;
5. allows the court, as a condition of probation or conditional discharge, to require an offender to participate in an anti-bias crime education program if he is convicted of (a) the bill's bigotry and bias crimes; (b) deprivation of rights, desecration of property, or cross burning; or (c) deprivation of a person's civil rights by a person wearing a mask or hood;
6. requires that basic or review training programs conducted or administered by the State Police, Police Officer Standards and Training Council, or municipal police departments include training on bigotry and bias crimes;
7. creates a State Police hate crimes unit to assist local police departments develop and implement programs that increase community awareness, reporting, and combating of bias crimes;

8. creates a Hate Crimes Advisory Committee in the Office of the Chief State's Attorney;
9. creates a Hate Crimes Training and Awareness Grant Program administered by the Office of Policy and Management (OPM);
10. requires the State Board of Education (SBE) to encourage and help school boards include hate crimes education and awareness in public schools;
11. expands the requirement that local law enforcement officials report to the State Police on crimes of intimidation based on bigotry or bias to include the new bias crimes in the bill;
12. expands the civil cause of action for personal or property damage from acts that violate the criminal statute on intimidation based on bigotry or bias to include the new bias crimes in the bill; and
13. makes several conforming changes.

EFFECTIVE DATE: July 1, 2001, except that provisions establishing first, second, and third degree bigotry and bias crimes and certain conforming changes are effective October 1, 2000.

CRIMES

First-Degree

The bill creates the crime of intimidation based on bigotry or bias in the first degree. A person commits this crime if he maliciously and with intent to intimidate or harass another person because of his actual or perceived race, religion, ethnicity, or sexual orientation causes serious physical injury to that person or a third person. This crime is a class C felony punishable by one to 10 years in prison, a fine of up to \$10,000, or both.

Second-Degree

Under current law, a person is guilty of intimidation based on bigotry

or bias if he acts maliciously and intends to intimidate or harass someone because of his race, religion, ethnicity, or sexual orientation by:

1. making physical contact with the victim;
2. damaging, destroying, or defacing property; or
3. threatening to do either of these things and gives the victim reasonable cause to believe he will carry out the threat.

The bill changes this provision by:

1. making it a crime in the second degree (but it maintains the existing class D felony penalty of up to five years in prison, a fine of up to \$5,000, or both);
2. specifying that the perpetrator must act because of the victim's actual or perceived race, religion, ethnicity, or sexual orientation; and
3. eliminating the definition of "sexual orientation."

The bill also eliminates the current provision that specifies that this crime and the persistent offender law do not expand any civil rights remedies a victim of intimidation based on bigotry or bias has beyond those that existed on October 1, 1990.

Third-Degree

The bill creates the crime of intimidation based on bigotry or bias in the third degree. A person commits this crime if he intends to intimidate or harass a person or group of people because of their actual or perceived race, religion, ethnicity, or sexual orientation and (1) damages, destroys, or defaces any property or (2) threatens to do so by word or act or advocates or urges another person to do so and gives the victim reasonable cause to believe the act will occur.

This crime is a class A misdemeanor, punishable by up to one year in prison, a fine of up to \$2,000, or both.

Persistent Offenders

The bill expands the law that provides higher penalties for a person convicted of certain bias crimes for a second time to include the new crimes in the bill.

As under current law, the court can sentence a persistent offender to the next highest sentence class. The court must find that the character and history of the individual and the nature and circumstances of the crime indicate that the increased penalty best serves the public interest.

HATE CRIMES DIVERSION PROGRAM

The bill creates a hate crimes diversion program under AR and allows the court to require participation in the program as a condition of probation. It applies to people charged with (1) deprivation of rights, desecration of property, and cross burning; (2) deprivation of a person's civil rights by a person wearing a mask or hood; and (3) the crimes of intimidation based on bigotry or bias in the first, second, and third degrees that the bill creates.

By law, people charged with certain crimes are excluded from participating in AR and someone charged with a class C felony must show "good cause" to participate. Because the new crime of intimidation based on bigotry or bias in the first degree is a class C felony, people charged with this crime must show "good cause" to participate in AR.

The bill requires the hate crimes diversion program to include a psychosocial assessment, education, supervised community service, and follow-up contact designed to change the attitude and behavior of someone charged with crimes motivated by bigotry or bias.

The Office of Adult Probation must contract with service providers, develop standards, and oversee the programs to ensure that they meet the bill's requirements.

The bill requires the defendant to pay the court a \$425 fee, rather than the \$100 fee paid by other AR participants. But the court cannot

exclude a person who is unable to pay if it finds that he cannot pay based on his affidavit of indigency or inability to pay and the Office of Adult Probation confirms this.

The bill allows a person to attend a program in another state with similar or higher standards if his employment or residence makes it unreasonable to attend a program here. But the court must approve it, and the same application and program fees apply.

HATE CRIMES ADVISORY COMMITTEE

The bill requires the chief state's attorney to establish a Hate Crimes Advisory Committee. The committee (1) coordinates federal, state, and local efforts on enforcing bigotry and bias crime laws and programs increasing community awareness, reporting, and combating of these crimes and (2) makes recommendations on training police officers about bigotry and bias crimes.

TRAINING AND AWARENESS GRANT PROGRAM

The bill creates a Hate Crimes Training And Awareness Grant Program that OPM administers. OPM can make grants to municipalities on a competitive basis regarding laws on intimidation based on bigotry or bias to (1) improve law enforcement, (2) improve police training on enforcement of these laws, and (3) increase community awareness and reporting of these crimes. OPM is barred from using these funds for its administrative costs.

STATE BOARD OF EDUCATION RESPONSIBILITIES

The bill requires SBE to encourage and help school boards include hate crimes education and awareness in the (1) program of instruction they offer in the public schools and (2) in-service training programs they must provide for their educators. SBE must meet its new responsibility within available appropriations, using available resources. The law already requires the same for subjects concerning (1) African-American, Puerto Rican, and Native American history; (2) Holocaust education and awareness; (3) historical events surrounding the Great Famine in Ireland; (4) personal financial management; and (5) topics SBE approves on request of a school board.

BACKGROUND***Deprivation of Rights, Desecration of Property, and Cross Burning***

By law, it is a crime to:

1. deprive someone of any legally-guaranteed right because of his religion, national origin, alienage, color, race, sex, blindness, or physical disability;
2. intentionally desecrate any public property, monument, or structure; religious object, symbol, or house of worship; cemetery; or private structure; or
3. place a burning cross or simulation of one on public property or on private property without the written consent of the owner.

This crime is a class A misdemeanor punishable by up to one year in prison, a fine of up to \$2,000, or both. If the crime causes more than \$1,000 of property damage, it is a class D felony punishable by one to five years in prison, a fine of up to \$5,000, or both.

Deprivation of a Person's Civil Rights by Person Wearing a Mask or Hood

By law, penalties are increased for the crimes involving depriving someone of his constitutional rights, desecrating property, or burning a cross under certain circumstances if the person (1) commits the crime while wearing a mask, hood, or other device designed to conceal his identity and (2) intends to deprive another person of any legally guaranteed right because of his religion, national origin, alienage, color, race, sex, blindness, or physical disability. This is a class D felony punishable by one to five years in prison, a fine of up to \$5,000, or both.

Police Officer Standards and Training Council

This council, which is administratively within the Department of

Public Safety, develops and updates police training programs, sets minimum course requirements, and certifies officers who have successfully completed minimum and review training, among other things.

Accelerated Rehabilitation

This program is for people accused of nonserious crimes or motor vehicle violations and who have no prior convictions or specified motor vehicle violations, have not previously been adjudged a youthful offender, who are not eligible for certain other pretrial programs, and who the court believes are unlikely to offend again. The program allows them to waive trial and be placed on probation for up to two years, subject to any conditions the court orders. All charges are dismissed on successful completion of probation.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 39 Nay 0